

**BOONE COUNTY BOARD OF ADJUSTMENT
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
BUSINESS MEETING
November 9, 2011
6:00 P.M.**

Mr. Terry Edwards called the meeting to order at 6:00 P.M.

BOARD MEMBERS PRESENT:

Mr. Terry Edwards
Mr. Richard Miller
Mr. Bradley Shipe

BOARD MEMBERS NOT PRESENT:

Mr. George Whitton
Mrs. Rebecca Trout

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Mr. Edwards stated that the Board members received copies of the Minutes of the Boone County Board of Adjustment Meeting of October 12, 2011. He asked if there were any comments or corrections.

There being no changes to the minutes, Mr. Shipe moved that they be approved as mailed and Mr. Miller seconded the motion. Mr. Edwards asked for a vote and it carried unanimously.

- 1. Request of Ray Riska for McDonald's for two (2) Variances. The first Variance is to allow additional building mounted signage on the front facade of the building and the second is to increase the height of a menu board. The property is located at 1980 Petersburg Road, Boone County, Kentucky and is currently zoned Commercial Two (C-2).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report).

Mr. Ray Riska said Paul Groen and Grant Groen were present with him this evening. They are the owner/operators of most of the McDonald's restaurants in Boone County. Business at this restaurant has grown over the years. They want to add seating and storage areas inside and parking outside. They also want to add capacity to the drive through because it currently backs out into the street during peak times. Having two menu boards will allow orders to be taken faster and increased vehicle stacking. However, what they are here for tonight is signage. The yellow swish on the front facade is externally illuminated. While they consider it an architectural element, the Zoning Regulations define it as a sign. They are willing to eliminate the welcome and rooftop signs. They want to increase the height of the second menu board 9 inches so it matches the other one.

Mr. Paul Groen said his family has been doing business in Boone County since 1975. He offered to answer any questions that the Board had.

Mr. Miller asked if signage was proposed on the sides of the building? Mr. Morgan referred to the elevation drawings and indicated that signage was proposed on the side facades. The signage on the side facades meets code and does not need Variance approval.

Mr. Groen said they are trying to add capacity to their Hebron location because during lunch the traffic often backs out onto the street. They hope to address this problem by increasing the seating, parking, and drive through capacity. The building additions will also allow them to address their storage problems.

Mr. Riska said the Variance request is being caused by the yellow swish on the front facade. Mr. Groen added that a lot of dead space is being included in the signage calculation. Mr. Morgan added that the sign code requires a rectangle to be drawn around the highest and widest portion of a sign and that a lot of dead space is being calculated. Mr. Edwards asked Mr. Riska to confirm that the rooftop sign and welcome signs would not be constructed. Mr. Riska and Mr. Groen agreed that they would not be constructed.

Mr. Edwards asked if they could address Staff Comment 4. Mr. Grant Groen said McDonald's marketing department comes out with new things each month. They are part of an advertising co-op with 115 other McDonald's restaurants and they all contribute funds to things like temporary signage. Each owner/operator has 1 vote and the majority vote determines what is done at the restaurants. He indicated that they would have no issue taking the temporary signs down if they do not meet code. Mr. Morgan added that the Zoning Regulations allow each commercial establishment 5 Temporary Advertising Display Permits in a calendar year and each permit is valid for 14 days. Mr. Edwards and Mr. Miller asked if McDonald's could construct the other menu board option shown in the Staff Report and insert the menu board topper into the empty space? Mr. Morgan said he had this discussion with Mr. Riska and the problem is the menu board toppers are not a uniform size.

Mr. Edwards asked if anybody in the audience would like to speak regarding the request?

Mr. Bob Flick said he was part owner in the adjoining property. He doesn't see any problems with their proposal. He said that the facility as it exists today is a danger because the traffic can back into the street. He believes the second drive through lane will be a good remedy.

Mr. Edwards asked for a motion. Mr. Miller made a motion to approve the request with the following conditions:

- 1. The rooftop sign is not permitted.**
- 2. The welcome signs above the doors are not permitted because they are not attached to the building.**

3. **All temporary signs displayed on the menu boards shall comply with Section 3420 of the Boone County Zoning Regulations.**

Mr. Shipe seconded the motion. Mr. Edwards called for a vote and it carried unanimously.

2. **Request of Fadi George Swaiss for a Variance to allow a deck with a pergola to encroach into the rear yard setback. The property is located at 2101 Bluegrama Drive, Boone County, Kentucky and is currently zoned Suburban Residential One (SR-1).**

Staff Member, Todd Morgan, AICP, presented the Staff Report which included a Power Point presentation (see Staff Report). He added that Robert and Kelly Amicone, the adjoining property owners to the south, have submitted a letter indicating they have no objections to the request (see Exhibit 1).

Mr. Fadi George Swaiss said he and his wife bought the property in 2000. He was originally under the impression that he owned the parcel to the south. In 2004 or 2005, a builder started construction of a house on this lot. He contacted the builder immediately because the property line was very close to his patio. The builder agreed to sell him a small sliver of property so he could have some sort of back yard. He installed 54 Arborvitae trees along the rear property line for privacy but the majority of them keep dying because the soil is poor. His next idea was to build a ground level deck with some lattice on the sides so he could screen the neighbors and the street from view. He came into the Planning Commission in April and he talked to somebody about the zoning process. The contractor agreed to pull all the permits and he was under the impression that everything was okay. A couple of months ago he got a letter from the Planning Commission indicating that he needed to file for a Variance because the deck had been constructed with a pergola.

Mr. Edwards asked the record to reflect that nobody else was present in the audience to speak for or against the request.

Mr. Edwards asked if any of the Board members had any questions? There was no response.

Mr. Edwards asked for a motion. Mr. Miller made a motion to approve the Variance as submitted because the neighbor did not voice any objections. Mr. Shipe seconded the motion. Mr. Edwards called for a vote and it carried unanimously.

ADJOURNMENT

Mr. Edwards asked for a motion to adjourn the meeting. Mr. Miller so moved and Mr. Shipe seconded the motion. Mr. Edwards asked for a vote and the meeting was adjourned by unanimous consent at 6:39 P.M.

APPROVED

Terry Edwards

Attest:

Todd K. Morgan, AICP
Senior Planner, Zoning Services

Exhibits

#1 - Letter from Robert and Kelly Amicone